

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Notice of Intended Action

#### **Proposing rule making related to foster care facility inspections and providing an opportunity for public comment**

The Inspections and Appeals Department (Department) hereby proposes to amend Chapter 5, “Public Records and Fair Information Practices,” and rescind Chapter 40, “Foster Care Facility Inspections,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 17A.7(2).

#### *Purpose and Summary*

Currently, Chapter 40 addresses duties related to the performance of foster care facility inspections by the Department on behalf of the Department of Human Services. After a review of this chapter in association with Iowa Code section 17A.7(2), the Department determined that references within this chapter are outdated and the duties set forth therein are redundant because the Department completes a comprehensive memorandum of understanding each year that governs the totality of work performed by the Department on behalf of the Department of Human Services and the duties associated therewith. This proposed rule making rescinds Chapter 40.

Subrule 5.12(2) regarding confidential records is also proposed to be updated to eliminate redundancy and remove outdated citations, including one reference to Chapter 40.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend 481—Chapter 5, introductory paragraph, as follows:

The department of inspections and appeals adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices ~~printed in the first volume of the Iowa Administrative Code~~, which are published on the Iowa general assembly’s website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

ITEM 2. Amend subrule 5.12(2) as follows:

**5.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

~~The list below indicates rules prohibiting release.~~

1. ~~481— 21.5(10A). Real estate broker trust account information is governed by Iowa Code section 272C.6(4).~~

2. ~~481— 22.2(10A). Health care facility audits are confidential under Iowa Code section 217.30.~~

3. ~~481— 40.4(10A). DHS determines accessibility of foster care inspection records.~~

4. ~~481— 50.8(22,135B,135C). Survey information is confidential pursuant to Iowa Code sections 135B.12 and 135C.19.~~

5. ~~481— 71.9(10A). Recoupment records and appeals and hearing records are governed by Human Services rules and Iowa Code section 217.30.~~

6. ~~481— 72.4(10A). Food stamp investigation records are released only to DHS when an investigation is complete.~~

7. ~~481— 73.8(10A). Iowa Code sections 10A.105, 17A.2(7)“f,” and 22.7(18) describe some of the investigation records as confidential.~~

8. ~~481— 74.3(1)“e.” Economic assistance fraud bureau investigative material is not released pursuant to Iowa Code sections 10A.105, 17A.2(7)“f,” and 22.7(18).~~

~~In all cases, the originating agency shall determine whether records may be released.~~

ITEM 3. Rescind and reserve **481—Chapter 40.**